

AUG 18 1983

Mr. T. Frederick Kenney
Legal Department
American Cyanamid Company
One Cyanamid Plaza
Wayne, New Jersey 07470

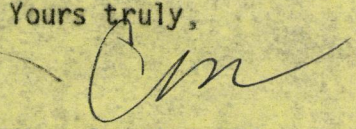
Dear Fred:

American Cyanamid
RCRA Docket No. 83-H-006

Enclosed you will find the original and one copy of the Consent Agreement and Final Order for signature by the company. Please sign the original and return it to me. You may keep the copy for your files. The Regional Hearing Clerk will provide you with an executed copy after it has been signed by the Regional Administrator and filed.

I think I incorporated into the Findings your suggested wording, absent a few "whereas."

Yours truly,


Cheryl Micinski
Attorney
Office of Regional Counsel

Enclosures

bcc: David Doyle, AWCM
Bob Stewart, WMBR



R00301736
RCRA RECORDS CENTER

		CONCURRENCES					
SYMBOL	CNSL/CLM	micinski.ksp	8-12-83	Disk 9-19			
SURNAME	CNSL	WMBR	AWCM				
DATE			8/17/83				

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CC-0 David Joynt
Rural Transit Authority

DATE	SUR NAME	SYMBOL
08/11/68	Jones, John C.	WMB-7

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AUG 18 1983

Mr. T. Frederick Kenney
Legal Department
American Cyanamid Company
One Cyanamid Plaza
Wayne, New Jersey 07470

RECEIVED
AUG 18 1983
AIR AND HAZARDOUS MATERIALS
DIVISION

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RCRA Docket No. 83-H-006

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CNSL/CLMicinski:ksp:8-12-83:Disk 9-19
CNSL

EPA-ARWM/PMTS

AUG 18 1983

Region VII K.C., MO

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII
324 EAST ELEVENTH STREET
KANSAS CITY, MISSOURI 64106

IN THE MATTER OF)	
)	Docket No. 83-H-006
American Cyanamid Company)	
Palmyra, Missouri)	CONSENT AGREEMENT
)	AND
EPA I.D. No. MOD050226075)	FINAL ORDER

PRELIMINARY STATEMENT

This proceeding for the assessment of a civil penalty was initiated pursuant to Section 3008 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6928. The Complainant in this proceeding, the Regional Administrator, United States Environmental Protection Agency (EPA), Region VII, issued a Complaint and Compliance Order and Notice of Opportunity for Hearing to Respondent, American Cyanamid Company, on or about January 24, 1983. The Complaint charged Respondent with violation of Section 3004 of RCRA, 42 U.S.C. 6924, and 40 C.F.R. §265.90.

Complainant and Respondent have agreed to a settlement in this case without adjudication of fact or law. For the purposes of this proceeding, Respondent admits the jurisdictional allegation of the Complaint. Respondent admits the specific factual allegation set forth in the Findings of Fact below. This agreement shall constitute the final disposition of this matter as long as the terms and conditions of the Consent Agreement are met. Respondent hereby explicitly waives its right to receive a hearing on issue of fact or law set forth herein. Respondent consents to the Order hereinafter recited, agrees to the payment of the penalty in the amount set out in the Order, and agrees to comply with all the provisions set forth in the Final Order.

FINDINGS OF FACT

1. American Cyanamid Company owns and operates an agricultural chemical manufacturing plant located at Route 168 and JJ Spur, Palmyra, Missouri.
2. On or about August 15, 1980, Respondent notified EPA that it generated, transported, and treated, stored or disposed of hazardous waste as defined at 40 C.F.R. §§261.31; 261.32; 261.33(f); 261.33(e); 261.21; 261.22; 261.23; and 261.24.
3. On or about November 14, 1980, Respondent filed with EPA a RCRA Part A permit application and stated that it stored and/or treated hazardous waste numbered F001, F002, F003, F005, K038, K040, P094, U037, D001, D002, and D003, which were stored and treated in a series of earthen surface impoundments on the site.
4. Pursuant to 40 C.F.R. Part 265, Subpart F, on or before November 19, 1981, the owner or operator of a surface impoundment which is used to manage hazardous waste must have implemented a groundwater monitoring program capable of determining the facility's impact on the quality of groundwater in the uppermost aquifer underlying the facility.

5. Pursuant to an inspection on September 16, 1982, it was determined that Respondent had failed to install a groundwater monitoring system in compliance with 40 C.F.R. Part 265, Subpart F.
6. On January 24, 1983, Respondent was issued a Complaint, Compliance Order and Notice of Opportunity for Hearing by EPA, Region VII, for failure to comply with the requirements of 40 C.F.R. Part 265, Subpart F.
7. On April 15, 1983, Respondent submitted to EPA a petition to delist certain hazardous waste resulting from the incineration of hazardous waste numbered K038. The petition was submitted pursuant to 40 C.F.R. §§260.20 and 220.22.
8. On March 21, 1983, and May 19, 1983, Respondent filed with EPA amended Part A permit applications which among other changes deleted references to certain hazardous waste being discharged and treated in the surface impoundments.
9. EPA has approved the Part A permit application, as revised, and has notified Respondent of this approval in a letter dated August 8, 1983.
10. Provided that Respondent's petition to Delist Certain Hazardous Waste is granted by the EPA Administrator, and in consideration of EPA's approval of the revised Part A permit application, Respondent will not be required to comply with the groundwater monitoring requirements pursuant to 40 C.F.R. Part 265, Subpart F.

ORDER

11. Pursuant to the authority of Section 3008 of RCRA, 42 U.S.C. 6928, upon considerations of the above Findings of Fact, upon consideration of the nature, circumstances and seriousness of the violation and after consideration of the entire record herein, it is this _____ day of _____, 1983, ORDERED that Respondent, American Cyanamid Company, pay a civil penalty in the amount of \$2,000, within 30 days of receipt of an executed copy of the Consent Agreement and Final Order.

Payment shall be made by cashier's or certified check payable to the United States Treasury and forwarded to the Regional Hearing Clerk, United States Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106.

12. IT IS FURTHER ORDERED that Respondent shall pursue the Petition to Delist Hazardous Waste which was submitted to EPA on April 15, 1983. Provided that EPA approves the Petition to Delist Hazardous Waste submitted by Respondent on April 15, 1983, Respondent shall not be liable for any further civil penalty for violation of 40 C.F.R. Part 265, Subpart F, as recited in the Complaint, Compliance Order and Notice of Opportunity for hearing issued by EPA on January 24, 1983.

13. If EPA denies the Petition to Delist Hazardous Waste submitted by Respondent on April 15, 1983, American Cyanamid Company shall pay, in addition to the \$2,000 penalty specified in Paragraph 11, an additional penalty of \$12,000 and shall within ninety days of such denial, install groundwater monitoring system for the surface impoundments which shall comply with the requirements of 40 C.F.R. §265, Subpart F.

14. If the full amount of the penalty recited in Paragraph 11 has not been paid within thirty days of receipt of the executed Consent Agreement and Consent Order, enter shall thereon commence to be charged. Said interest shall be calculated at the rate of 11% per annum on the balance of the unpaid penalty and accumulated interest until both are fully paid.

AMERICAN CYANAMID COMPANY
Respondent

By: _____

At: _____

Date: _____

UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY
Complainant

By: Cheryle Mcinski
Cheryle Mcinski
Attorney, Office of Regional Counsel

At: 324 East 11th Street
Kansas City, Missouri 64106

Date: August 16, 1983

IT IS SO ORDERED. This Order shall become effective upon receipt of a signed copy of the Order by Respondent, American Cyanamid Company.

Morris Kay
Regional Administrator
U.S. EPA, Region VII
324 East 11th Street
Kansas City, Missouri 64106

Date: _____